



# ***INSIGHTS***

108<sup>th</sup> Congress

May 6, 2003

*Also available on the FEMP Home Page at  
[www.eere.energy.gov/femp/resources/insights.html](http://www.eere.energy.gov/femp/resources/insights.html).*

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**INSIGHTS** is prepared expressly for the Department of Energy's Office of Federal Energy Management Programs (FEMP). The purpose of **INSIGHTS** is to provide FEMP management staff with timely information on legislative activities relevant to the program. **INSIGHTS** is prepared for FEMP by Energetics, Incorporated, (202) 479-2748.

# I. WEEKLY SUMMARY

## CONGRESSIONAL SCHEDULE

### House

This week, House activities include the following topics of interest:

- Subcommittee on Transportation, Treasury, and Independent Agencies (Committee on Appropriations) hearing on the FY 2004 Budget Request for the Department of Transportation

### Senate

This week, Senate activities include the following topics of interest:

- Floor debate scheduled to begin on May 7 on the *S. 14 – Energy Policy Act of 2003*
- Various hearings on the FY 2004 Budget Request, including:
  - Subcommittee on Transportation, Treasury, and General Government for the Department of Transportation
  - Committee on Appropriations for the Department of Agriculture
  - Subcommittee on the Legislative Branch (includes Architect of the Capitol activities)
- Committee on Commerce, Science, and Transportation hearing on the National Academy of Science review of draft strategic plan on climate change
- Subcommittee on Readiness and Management Support (Committee on Armed Services) mark up on FY 2004 Defense Authorization bill dealing with Readiness and Management Support; includes military construction and real property
- Subcommittee on Science, Technology, and Space (Committee on Commerce, Science, and Transportation) on the future of hydrogen fuel cells and anticipated benefits

## CONFERENCE COMMITTEES/VOTES

*No negotiations or votes of interest have been announced.*

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## II. COMMITTEE ACTIVITY

### HOUSE

#### Legislation

*Refer to chart below for a listing and brief description of new bills of interest.*

### SENATE

#### Legislation

*Refer to chart below for a listing and brief description of new bills of interest.*

***S- 14 – Energy Policy Act of 2003*** Last week, the Committee on Energy and Natural Resources completed a mark up of comprehensive energy legislation. The committee, which is led by Pete Domenici (R/NM), had to deal with a number of controversial issues, including, but not limited to renewable energy as a required source of power, Corporate Average Fuel Economy Standards, climate change, among others. Democrats introduced a number of amendments, which were defeated in committee; however, a flurry of amendments by both Republicans and Democrats are expected to be introduced on the Senate floor this week and throughout the Senate debate. Debate may take up to several weeks; the goal is for the Senate to approve *S. 14* by Memorial Day. The House passed its bill, *H.R. 6*, on April 11.

For the most part, House and Senate language dealing with Federal energy management is almost identical, with a few exceptions (see chart below).

#### Distinctions in House and Senate Bill Regarding Federal Energy Management

<i>Issue</i>	<i>H.R. 6</i>	<i>S. 14</i>
<b>Energy Management Requirements</b>		
<b>Goals</b>	<u>Base Year:</u> 2001	<u>Base Year:</u> 2000
<b>Review of Results</b>	<u>Period:</u> 2014 – 2023 <u>Report Due:</u> 12/31/12	<u>Period:</u> 2014 – 2022 <u>Report Due:</u> 12/31/11
<b>Voluntary Commitments to Reduce Industrial Energy Intensity</b>	Included in House bill	No comparable provision
<b>Federal Participation in Demand Reduction Programs</b>	Included in House bill	No comparable provision
<b>Advanced Building Efficiency Testbed</b>	Included in House bill	No comparable provision
<b>Utility Energy Service Contracts</b>	No comparable provision	Included in Senate bill
<i>(Continued next page)</i>		

<b>Federal Purchase Requirement</b>	No comparable provision	Included in Senate bill
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Key Federal Energy Management Provisions in the Senate bill include the following:

**Energy Reduction Goals** amends sec. 543(a)(1) (same text as House **except year is 2000**)

2004 – 2%  
2005 – 4%  
2006 – 6%  
2007 – 8%  
2008 – 10%  
2009 – 12%  
2010 – 14%  
2011 – 16%  
2012 – 18%  
2013 – 20%

**DOE to review results** – not later than 12/31/2011, to review results of implementation of energy performance requirement and submit report to Congress with recommendations concerning energy performance requirements for FY 2014 – FY 2022.

**Exclusions** - amends sec. 543(c)(1), permits Federal agencies to “exclude” from requirement if determined by agency head that compliance would be impracticable; agency has completed/submitted all Federally required energy management reports; agency has achieved compliance with this *Act*, *EPACT*, executive orders, and other Federal laws; agency has implemented all practicable, life cycle cost-effective projects to buildings to be excluded. Impracticability to be based on energy intensiveness of activities or performance of national security function(s).

**Review by Secretary** – amends sec. 543(c)(2) replaces “impracticability standards” with “standards for exclusion” and replaces “a finding of impracticability” with “the exclusion.”

**Criteria** – amends sec. 543(c), DOE to provide exclusion criteria within 180 of enactment.

**Retention of energy savings** – amends sec. 546, agencies may retain appropriated funds for energy expenditures at buildings subject to sec. 543(a) and (b) requirements that are not made due to energy savings; unless otherwise provided by law, such funds may be used only for energy efficiency or unconventional and renewable energy resources projects.

**Reports** – amends sec. 48(b). by inserting “The President” before Congress.

**Conforming Amendment** – amends sec. 550(d), strikes “20% reduction goal [sec. 543(a)] – inserts “each of the energy reduction goals established under section 543(a).

**Metering of Energy Use** – amends sec. 543, 1) by 10/1/10, based on DOE guideline, all Federal buildings shall be metered and submetered for energy/cost savings; 2) agencies shall use to maximum extent practicable, advanced meters/devices providing daily data and hourly energy use of electricity in Federal buildings; 3) data to be incorporated into existing Federal energy tracking systems and made available to facility energy managers; 4) DOE in consultation with DOD, GSA, and metering/utility/energy services/energy efficiency/national laboratories/ universities/Federal facility managers shall establish guidelines to carry out requirement; 5) guidelines to consider cost of metering and submetering and anticipated reduced cost of O&M; expected increased potential for energy management, savings, efficiency improvement, costs and energy savings due to utility contract aggregation; DOE M&V protocol to include recommendations for amount of funds and number of trained personnel needed to collect and

use metering information to track and reduce energy use; priorities for types/locations of metered and submetered buildings based on cost effectiveness and (within 1 year) requirements shall take effect; establish exclusions from requirements on de minimis quantity of energy use of Federal buildings, industrial process, or structure.

**Plan** Within 6 months of establishing guidelines, each agency shall submit plan to DOE for implementing these requirements.

**Revision to sec. 305(a)** replace “CABO Model Energy Code, 1992” with “the 2000 International Energy Conservation Code” (IEEC).

**Revised Federal Building Energy Efficiency Performance Standards** (same as House except the Senate version cites the most recent version of the International Energy Conservation Code).

**Additional Provisions** Within 1 year of revisions to ASHRAE 90.1 or IEEC, determine, based on cost effectiveness of requirements, if revised standards should be updated.

**New Buildings** Statement of compliance with this section to be provided by agencies in annual budget request and report to include list of all new Federally owned, operated, or controlled buildings; state if buildings meet or exceed revised standards as directed.

**Definitions** Energy Star Product – “rated for energy efficiency under an Energy Star program,” Energy Star Program – “program established by section 324A” of EPCA, Executive Agency – (refer to sec. 4, *Office of Federal Procurement Policy Act*, FEMP Designated Product – “among the highest 25 percent of equivalent products for energy efficiency.”

**Procurement of Energy Efficient Products** to meet requirements, agencies must procure Energy Star or FEMP- designated products.

**Exceptions** allowed if such products are not cost effective over life of product or if no such product meeting functional requirements is available.

**Procurement Planning** agencies shall include specifications in all procurements involving energy consuming products and systems, including guide and project specifications, construction, renovation, and service contracts (that include provisions of energy consuming products and systems), and into factors for evaluation of offers received, criteria for energy efficiency consistent with criteria for rating Energy Star and FEMP designated products.

**Listing of Energy Efficient Products in Federal Catalogs** Energy Star and FEMP- designated products shall be clearly identified and prominently displayed in GSA and DLA product inventory or listing; GSA or DLA shall supply only Energy Star or FEMP-designated products for all categories covered by Energy Star or FEMP; Exceptions - ordering agency must specify in writing that no such product is available to meet functional requirements or is cost-effective.

**Designation of Electric Motors of 1-500 hp** agencies shall select only premium efficient motors meeting DOE standard, which will be designated within 180 of enactment DOE to consider electric motor manufacturers and energy efficiency group recommendations for a standard.

**Regulations** DOE to issue guidelines for this section within 180 days of enactment.

**Conforming Amendment** inserts in table of contents in sec. 1(b) of NECPA Sec. 552. Federal procurement of energy efficient products.

**Permanent Extension** amends *NECPA*, by repealing sec. 801(c)

**Replacement Facilities** - in case of energy savings contract or ESPC for energy savings through construction and operation of 1 or more buildings or facilities to replace 1 or more existing buildings or facilities, benefits ancillary to purpose of such contract may include savings resulting from reduced costs of O&M at such replacement buildings or facilities when compared with costs of O&M at buildings or facilities being replaced, established through methodology set forth in contract; Aggregate annual payments [not withstanding paragraph (2)(B)], by any agency under an energy savings contract or ESPC, may take into account (through procedures developed in this section) savings resulting from reduced costs of O&M.

**Definition of Energy Savings** - amends sec. 804(2), means reduction in cost of energy or water from base cost established through methodology set forth in contract, used in existing Federally owned buildings(s) or other facilities as result of lease or purchase of operating equipment, improvements, altered O&M, or technical services; increased efficient use of existing energy sources by cogeneration or heat recovery (excluding cogeneration process for other than Federally owned building(s) or facilities; or increased efficient use of existing water resources. For replacement buildings or facilities – reduction in cost of energy from base cost established through methodology set forth in contract that would otherwise be used in 1 or more existing Federally owned buildings or facilities by reason of construction and operation of replacement buildings or facilities.

**Definition of Energy Savings Contract and ESPC** - amends sec. 804(3), means contract that provides for performance of services for design, acquisition, installation, testing, operations, and where appropriate, maintenance and repair of identified energy and water conservation measure(s) or energy savings through construction and operation of 1 or more buildings or facilities to replace 1 or more existing buildings or facilities; Such contracts for Federal public building shall be in compliance with prospectus requirements and procedures of section 7 of *Public Buildings Act of 1959*.

**Definition of Energy or Water Conservation Measure**

amends section 804(4), an conservation measure is defined by section 551(4) a water conservation measure that improves water efficiency, is life cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in O or M efficiencies, retrofit activities, or other related activities not at a Federal hydroelectric facility.

**Review** within 180 days of enactment, DOE shall complete a review of ESPC program to identify statutory, regulatory, and administrative obstacles preventing Federal agencies from fully using program. Review to identify all areas for increasing program flexibility and effectiveness, including audit and M&V requirements, accounting for energy use in determining savings, contracting requirements, and energy efficiency services covered; DOE shall report findings to House Committee on Energy and Commerce and Senate Committee on Energy and Natural Resources; DOE shall implement identified administrative and regulatory changes to extent such changes are consistent with statutory authority.

**UESC Authorization** authorizes and encourages agencies to participate in programs, including UESCs, conducted by gas, water, and electric utilities and generally available to the utilities' customers.

**Purpose** to increase energy efficiency, water conservation, or the management of electricity demand.

**Additions and Deletions to sec. 554(c)(1)**

- 1) delete “based on future revisions to such standard test method
- 2) delete “24” and replace with “36”
- 3) insert after “standards” – “prescribed or”
- 4) delete “in the Federal Register”
- 5) delete “after taking into account such” and insert “along with an explanation of such changes, and, where appropriate, responses to”
- 6) insert after “program” – “in a cost-shared manner”

**Requires Federal Government to purchase** not less than 3% renewable electric energy in FY 2005 – Y 2007, increasing to not less than 7.5% renewable electric energy in FY 2011 and thereafter.

**Provides double credit for renewable electric energy** produced and used on-site at a Federal facility, as well as for renewable energy produced on Federal or Indian lands and used at a Federal facility.

**Requires report to Congress** in 2005 and every 2 years thereafter on compliance.

**To view summaries of Federal energy management provisions in the House and Senate bills**, go to <http://www.eere.energy.gov/femp/resources/initiatives.html> (**note:** the updated FEMP Legislative Database will be available on or about May 9 on the FEMP Home Page)

**To view the two bills in their entirety**, go to <http://thomas.loc.gov/> - **note** Select *H.R. 6* under the House and *S. 14* under the Senate. **To view the index and individual provisions for either bill**, scroll to bottom of the page and select "Text of Legislation." For the House, select item #2 (passed by the House); for the Senate, follow the same procedures to view the index. Select the desired provision in the index and you will be linked to the full text of the provision.

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## IV. NEW LEGISLATION

*(Note: Once a new bill is introduced, the Government Printing Office generally requires from several days to one week to make the bill available in print)*

See detailed provisions for all bills at: [thomas.loc.gov](http://thomas.loc.gov)

### HOUSE

Number	Short title	Date	Sponsor	Status
<b>H. R. 1837</b>	<b>Services Acquisition Reform Act of 2003</b>	April 29	Tom Davis (R/VA)	Referred to the Committees on Government Reform and Armed Services
	<p>Provides authority to enter into share-in-savings contracts to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance. Contract shall be performance-based with a quantifiable baseline and shall last no longer than five years.</p> <p>Office of Management and Budget (OMB) shall identify potential opportunities for use of share-in-savings contracts; provide guidance to executive agencies for determining mutually beneficial savings share ratios and baselines from which savings may be measured; and, <b>in consultation with Senate and House committees and executive agencies, develop techniques to permit an executive agency to retain a portion of the savings derived from share-in-savings contracts as funds are appropriated to the agency in future fiscal years.</b> FAR shall be revised to provide for use of competitive procedures in selection and award of share-in-savings contracts to ensure contractor's share of savings reflects risk involved and market conditions; yield best value to government; and allow appropriate regulatory flexibility to facilitate use of share-in-savings contracts.</p> <p>OMB shall submit to Congress an assessment of share-in-savings contracts and recommendations on changes that should be made to ensure their effective use.</p> <p>Agencies may include in a contract for the performance of services an option to extend contract by 1 or more additional periods on basis of exceptional performance by contractor.</p> <p>Federal Procurement Policy shall establish Center of Excellence in contracting for services to identify and serve as clearinghouse for best practices in contracting for services in the public and private sectors.</p>			
<b>H.R. 1720</b>	<b>Veterans Health Care Facilities Capital Improvement Act</b>	April 10	Robert Simmons (R/CT)	Referred to the Committee on Veterans' Affairs
	<p>Authorizes Department of Veterans Affairs to carry out construction projects for purpose of improving, renovating, establishing, and updating VA medical center patient care facilities.</p> <p>Provides for FY 2004, \$100 million; for FY 2005, \$125 million; and for FY 2006, \$150</p>			



Number	Short title	Date	Sponsor	Status
	million. Funding shall be used to improve and update patient care facilities, <b>including improvements to utility systems and ancillary patient care facilities.</b>			
	By April 2005, GAO shall submit report to Congress evaluating advantages and disadvantages of Congressional authorization for projects of the type outlined in this bill.			

## SENATE

Number	Short title	Date	Sponsor	Status
<b>S. 944</b>	<b><i>Renewable Energy Investment Act of 2003</i></b>	April 29	Jim Jeffords (I/VT)	Referred to the Committee on Energy and Natural Resources
	Enhances national security, environmental quality, and economic stability by increasing production of clean, domestically produced renewable energy as fuel source for national electric system.			
	Beginning in 2006, and each year thereafter, each retail electric supplier shall submit to DOE, renewable energy credits an amount equal to the required annual percentage of retail electric supplier's total amount of kilowatt-hours of non-hydropower electricity sold to consumers during previous calendar year.			
	Percentage of renewable energy per year shall be as follows:			
	5 % for 2006-2009			
	10 % for 2010-2014			
	15% for 2015-2019			
	20% for 2020 and subsequent years.			
	DOE shall establish program to issue, monitor the sale or exchange of, and track renewable energy credits.			
	DOE shall distribute amounts received from sales to states to be used for grant programs for renewable energy research and development; loan guarantees to encourage construction of renewable energy facilities; consumer rebate or other programs to offset costs of small residential or small commercial renewable energy systems, including solar hot water; or promotion of distributed generation.			

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## V. ADMINISTRATION INITIATIVES

*No news of interest to report.*

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## VI. HEARINGS SCHEDULE

### HOUSE – COMMITTEE ON APPROPRIATIONS

Date/Committee	Chair	Hearing Title/Issues	Witnesses	Time/ Location
<b>May 6 –</b> Subcommittee on Transportation, Treasury , and Independent Agencies  (Committee on Appropriations)	Ernest Istook Jr., (R/OK)	<b>Hearing –</b> FY 2004 Budget Request for the Department of Transportation	Norman Mineta, Secretary of Transportation	2 p.m. Room 2358 Rayburn Office Building

### HOUSE – AUTHORIZATIONS/OVERSIGHT

*No new hearings, mark ups, or votes of interest.*

### CONFERENCE COMMITTEE NEGOTIATIONS/FLOOR VOTES

*No new activities of interest have been scheduled.*

### SENATE – COMMITTEE ON APPROPRIATIONS

Date/Committee	Chair	Hearing Title/Issues	Witnesses	Time/ Location
<b>May 8 –</b> Subcommittee on Transportation, Treasury, and General Government  (Committee on Appropriations)  <b>(NEW)</b>	Richard Shelby (R/AL)	<b>Hearing –</b> FY 2004 Budget Request for the Department of Transportation	Norman Mineta, Secretary of Transportation	10 a.m. Room 138 Dirksen Office Building

Date/Committee	Chair	Hearing Title/Issues	Witnesses	Time/ Location
<i>May 8 –</i> Committee on Appropriations  <i>(NEW)</i>	Ted Stevens (R/AK)	<i>Hearing –</i> FY 2004 Budget Request for the Department of Agriculture  Includes discussion of USDA's newly authorized energy conservation programs and a program that provides grants to farmers and small businesses for buying renewable energy systems and making energy efficiency improvements.	Ann Veneman, Secretary of Agriculture	9:30 a.m. Room 192 Dirksen Office Building
<i>May 8 –</i> Subcommittee on the Legislative Branch  (Committee on Appropriations)	Ben Campbell (R/CO)	<i>Hearing –</i> FY 2004 Budget Request for the Architect of the Capitol, among others		1:30 p.m. Room 124 Dirksen Office Building

## **SENATE – AUTHORIZATIONS/OVERSIGHT**

Date/Committee	Chair	Hearing Title/Issues	Witnesses	Time/ Location
<i>May 7 –</i> Committee on Commerce, Science, and Transportation  <i>(NEW)</i>	John McCain (R/AZ)	<i>Hearing –</i> Discussion of National Academy of Science review of the Administration's Draft U.S. Climate Change Science Program Strategic Plan	Richard Alley, Pennsylvania State University; Thomas Graedel, Yale University; Anthony Janetos, Director, H. John Heinz III Center for Science Economics and the Environment; Diana Liverman, University of Arizona; and Andrew Solow, Associate Scientist	9:30 a.m. Room 253 Russell Office Building

Date/Committee	Chair	Hearing Title/Issues	Witnesses	Time/ Location
			and Director, Marine Policy Center, Woods Hole Oceanographic Institution	
<b>May 7 –</b>  Subcommittee on Readiness and Management Support  (Committee on Armed Services)  <i>(NEW)</i>	John McCain (R/NM)	<b>Mark Up –</b>  Pending FY 2004 Authorization legislations; subcommittee has jurisdiction over military construction and real property activities	N/A	10:00 a.m. Room 222 Russell Office Building  (Closed mark up)
<b>May 7 –</b>  Subcommittee on Science, Technology and Space  (Committee on Commerce, Science and Transportation)  <i>(NEW)</i>	Sam Brownback (R/KS)	<b>Hearing –</b>  Examine the future of Hydrogen Fuel Cells (from transportation to residential building applications), including potential benefits	John Marburger, Director, Office of Science and Technology Policy; David Garman, Assistant Secretary, Department of Energy of Energy Efficiency and Renewable Energy; David Friedman, Clean Vehicles Program, Union of Concerned Scientists; Byron McCormick, General Motors Corporation; and Francis Preli, United Technologies Corp.	2:30 p.m. Room 235 Russell Office Building

## CONFERENCE COMMITTEE NEGOTIATIONS/FLOOR VOTES

Date	Activity and Issue(s)
<b>Week of May 6</b> <i>(NEW)</i>	<b>Debate and Vote –</b> Full Senate consideration of <i>S. 14 – Energy Policy Act of 2003</i>

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